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FISCAL IMPACT STATEMENT

LS 7376 | **NOTE PREPARED:** Jan 31, 2005
BILL NUMBER: HB 1571 | **BILL AMENDED:**

SUBJECT: New markets tax credit.

FIRST AUTHOR: Rep. Crawford | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State
X **DEDICATED**
FEDERAL

Summary of Legislation: This bill establishes the state New Markets Tax Credit for a taxpayer that qualifies for a federal New Markets Tax Credit.

Effective Date: January 1, 2005 (retroactive).

Explanation of State Expenditures: The Department of State Revenue (DOR) will incur additional expenses to revise tax forms, instructions, and computer programs in order to implement the New Markets Tax Credit (NMTC). The DOR's current level of resources should be sufficient to implement these changes. The administrative expenses incurred by the DOR should also be limited by the fact that the foremost eligibility requirement for this credit is that the taxpayer qualify for the federal NMTC as determined by the Internal Revenue Service.

The bill also requires the Department of Tourism and Community Development (DTCD) to establish a program to certify qualified equity investments as eligible for this credit. The DTCD should be able to cover the increase in administrative expenses through the use of existing staff and resources.

Explanation of State Revenues: This bill would allow state NMTC's ranging from $50,000 to $100,000 annually. The bill limits the amount of credits that may be approved in any given year to $100,000. The bill allows this credit for any qualified investment made on or after January 1, 2005. Therefore, collections from the Adjusted Gross Income Tax, the Financial Institutions Tax, and the Insurance Premiums Tax could be affected in FY 2005 and beyond.

This bill allows a taxpayer, that qualifies for the federal NMTC, to receive a credit against the taxpayer's Indiana tax liability incurred under the Adjusted Gross Income Tax, the Financial Institutions Tax, and the Insurance Premiums Tax.

Background: In 2003-2004 there were 2 entities that were awarded allocations from the U.S. Department of the Treasury from the NMTC program. The total allocation for 2003-2004 was $75 M. In 2002, there were 2 entities that qualified for the federal NMTC in Indiana. The allocation for these entities totaled $6 M. These allocations represent the amount of investments that were designated as qualifying for the credit. Section 45D of the Internal Revenue Code limits the total amount of designated investments to $2 billion nationwide in 2005, and $3.5 billion nationwide in 2006 and 2007.

Qualifications for the Federal Credit: Section 45D of the Internal Revenue Code (IRC) allows the federal NMTC for a taxpayer who holds a qualified equity investment on the credit allowance date. A qualified equity investment means any equity investment in a qualified community development entity if:

> (A) the investment is a cash investment;
> (B) substantially used by the qualified community development entity to make qualified low-income community investments; and,
> (C) such investment is designated for the purposes of this code section by the qualified community development entity.

A qualified community development entity is defined as any domestic corporation or partnership with the primary mission of serving, or providing investment capital for, low-income communities or persons. The entity must maintain accountability to residents of these low-income communities through representation on any governing board of the entity. These qualified community development entities are also required under the IRC to be certified by the Treasury Secretary.

Formula for Determining the Credit: The bill sets forth the following formula for determining the amount of the credit:

Step (1): Determine the amount of the qualified equity investment that is:
- (A) held by the taxpayer on the credit allowance date in the taxable year; and
- (B) certified as a certified equity investment by the DTCD.

Step (2): Multiply the Step (1) amount by the applicable percentage for the credit allowance date.

Step (3): Multiply the Step (2) amount by:
- (A) the tax credit adjustment factor approved by the DTCD; or
- (B) 0.85, if clause (A) does not apply.

The applicable percentages, as defined in the bill, equal 1% for the first 3 credit allowance dates and 2% for the remainder of the credit allowance dates.

The credit allowance date is the date on which the investment is initially made and the six annual anniversary dates immediately following the date of the initial investment. Therefore, this credit is allowed for 7 years and the bill also allows the taxpayer to carry any excess credit forward for not more than 3 subsequent taxable years.

The bill provides that not more than $5 M of qualified equity investments may be approved for tax credits in a state fiscal year. So, assuming that the DTCD's adjustment factor is 1, the maximum credits allowed in any one fiscal year are determined using the formula above.

Step (1):	= $5,000,000;
Step (2):	= multiply $5,000,000 by 1% for credit allowance dates 1 through 3 = $50,000
	= multiply $5,000,000 by 2% for credit allowance dates 4 through 7 = $100,000
Step (3):	= assuming the DTCD adjustment factor is 1, then the amount of the credits for any given fiscal year will range from $50,000 to a maximum of $100,000.

Revenue from the Adjusted Gross Income Tax, the Financial Institutions Tax, and the Insurance Premiums Tax is deposited in the General Fund and the Property Tax Replacement Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue; Department of Tourism and Community Development.

Local Agencies Affected:

Information Sources: U.S. Department of the Treasury,
http://www.cdfifund.gov/programs/programs.asp?programID=5#2

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